

REMARKS

Claims 1, 3-10, 14-16, 22-24, 26-29 and 41-45 were pending and examined in the Office Action dated December 9, 2004. Claims 1, 3-10, 14-16, 22-24, 26-29 and 41-45 were rejected in that Office Action, and the indicated allowability of claims 14-16 has been withdrawn by the Examiner. No claims have been added, modified, or deleted by this Amendment. Applicant respectfully requests reconsideration of this application.

Claims 1, 3-10, 14-16, 22-24, 26-29 and 41-45 stand rejected under 35 U.S.C. §102(e) as being anticipated by Palmaz et al. (2003/0028,246). Foremost, the passage of the Palmaz '246 publication cited by the Examiner, paragraph 39, is not prior art to the present application. The application (10/135,626) that resulted in the Palmaz '246 publication was filed on April 29, 2002. Applicant's present application was filed on October 25, 2001; therefore, for the Palmaz '246 publication to qualify as prior art under §102(e), the disclosure relied upon by the Examiner must be found in one of the priority applications referenced in the Palmaz '246 publication. Applicant's undersigned representative has reviewed the priority documents -- namely U.S. Patent No. 6,379,383 (USSN 09/443,929, filed 11/19/1999); U.S. Patent No. 6,537,310 (USSN 09/532,164, filed 03/20/2000) and Provisional Application No. 60/302,797, filed 7/3/2001 -- and none of those documents contains the disclosure in paragraph 39 of the Palmaz '246 publication. Accordingly, the rejection of Applicant's claims under §102(e) is improper and must be withdrawn.

Furthermore, even if the Palmaz '246 publication were prior art to the present application, which it is not, the document does not anticipate Applicant's claims. For example, Applicant's claim 1 recites a "substrate having an average grain size in the range of one to ten microns" (emphasis added). Conversely, the passage at paragraph 39 of the Palmaz '246 publication is directed to the dimension of a body (wall) 12 of a graft 10, wherein "the thickness 18 is between 0.1 μm and 75 μm " (emphasis added) -- see paragraph 38 and FIG. 1. As the Examiner must appreciate, the thickness of a graft is not

the same as the grain size of a substrate. According, the passage cited by the Examiner does not anticipate the elements of Applicant's claims.

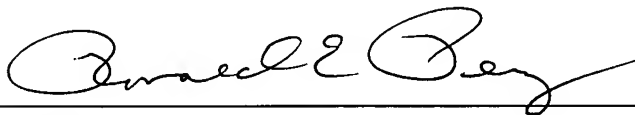
In view of the foregoing, Applicant respectfully submits that all presently pending claims are in condition for allowance, and that the application should be passed to issue. The Examiner is encouraged to contact the undersigned should there be any questions or resolvable matters regarding this application.

Respectfully submitted,

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